

106TH CONGRESS  
2D SESSION

# H. R. 4029

To amend the Public Health Service Act to provide for Alzheimer's clinical research and training awards, to amend title XVIII of the Social Security Act to expand the definition of homebound for purposes of receiving home health services under the medicare program to allow medicare beneficiaries to attend adult day care programs for treatment of Alzheimer's disease and other conditions, to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2000

Mr. SMITH of New Jersey (for himself and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Public Health Service Act to provide for Alzheimer's clinical research and training awards, to amend title XVIII of the Social Security Act to expand the definition of homebound for purposes of receiving home health services under the medicare program to allow medicare beneficiaries to attend adult day care programs for treatment of Alzheimer's disease and other conditions, to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term

care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Long Term Care and  
 5       Alzheimer’s Disease Advancement Act of 2000”.

6       **SEC. 2. ALZHEIMER’S CLINICAL RESEARCH AND TRAINING**  
 7               **AWARDS.**

8       Subpart 5 of part C of title IV of the Public Health  
 9       Service Act (42 U.S.C. 285e et seq.) is amended—

10           (1) by redesignating section 445I as section  
 11       445J; and

12           (2) by inserting after section 445H the fol-  
 13       lowing section:

14       “ALZHEIMER’S CLINICAL RESEARCH AND TRAINING  
 15                               AWARDS

16       “SEC. 445I. (a) The Director of the Institute is au-  
 17       thorized to establish and maintain the Alzheimer’s disease  
 18       Physician-Scientist program to enhance and promote the  
 19       translation of new scientific knowledge into clinical prac-  
 20       tice toward the diagnosis, care and treatment of individ-  
 21       uals with Alzheimer’s disease.

1 “(b) In order to foster the application of the latest  
 2 developments in Alzheimer’s diagnosis, treatment and  
 3 care, funds under this program shall be directed to sup-  
 4 port promising clinicians through awards for research,  
 5 study, and practice at centers of excellence in Alzheimer  
 6 research and treatment.

7 “(c) Research awards under subsection (b) shall be  
 8 carried out in environments of demonstrated excellence in  
 9 neuroscience, neurobiology, geriatric medicine, psychiatry  
 10 and foster innovation and integration of these disciplines  
 11 or other environments determined suitable by the Director  
 12 of the Institute.

13 “(d) In addition to any other authorization of appro-  
 14 priations available for the purpose of carrying out this sec-  
 15 tion, there are authorized to be appropriated for such pur-  
 16 pose \$2,250,000 for each of fiscal years 2001 through  
 17 2005.”.

18 **SEC. 3. MEDPAC STUDY ON MEDICARE PHYSICIAN REIM-**  
 19 **BURSEMENT RATES FOR ALZHEIMER’S DIS-**  
 20 **EASE.**

21 (a) STUDY.—The Medicare Payment Advisory Com-  
 22 mission, established under section 1805 of the Social Se-  
 23 curity Act (42 U.S.C. 1395b–6), shall conduct a study of  
 24 reimbursement rates under the medicare program (under  
 25 title XVIII of that Act (42 U.S.C. 1395 et seq.) to physi-

1 cians for Alzheimer services, including a determination of  
2 the adequacy of such reimbursement rates. The study  
3 shall include the following analyses:

4 (1) COMPREHENSIVE CLINICAL ASSESS-  
5 MENTS.—An analysis of whether payment policy  
6 under the medicare program for Alzheimer services  
7 encourages or discourages physicians to conduct  
8 comprehensive clinical assessments for medicare  
9 beneficiaries who exhibit symptoms of possible de-  
10 mentia.

11 (2) CLINICAL PRACTICE GUIDELINES.—An  
12 analysis of whether payment policy under the medi-  
13 care program encourages or discourages physicians  
14 to provide diagnostic and management services for  
15 Alzheimer’s disease or a related dementia as speci-  
16 fied in generally accepted clinical practice guidelines  
17 and protocols.

18 (3) ONGOING PHYSICIAN CONSULTATION.—An  
19 analysis of whether payment policy under the medi-  
20 care program for Alzheimer services encourages or  
21 discourages ongoing physician consultation with the  
22 medicare beneficiary’s caregivers, as specified in  
23 generally accepted diagnosis and practice guidelines.

24 (4) CAREER CHOICE.—An analysis of whether  
25 payment rates under the medicare program for phy-

1       sicians encourages or discourages physicians from  
2       choosing a career with a speciality in the treatment  
3       and management of Alzheimer’s disease and related  
4       dementia.

5       (b) DEFINITIONS.—In this section:

6           (1) The term “Alzheimer services” means the  
7       evaluation, diagnosis, and management of a medi-  
8       care beneficiary with Alzheimer’s disease or a related  
9       dementia, including ongoing consultation between  
10      the physician and caregivers of the beneficiary, con-  
11      sistent with generally accepted diagnosis and prac-  
12      tice guidelines.

13          (2) The term “medicare beneficiary” means an  
14      individual entitled to benefits under title XVIII of  
15      the Social Security Act (42 U.S.C. 1395 et seq.).

16      (c) REPORT.—Not later than 1 year after the date  
17      of the enactment of this Act, the Medicare Payment Advi-  
18      sory Commission shall submit to Congress a report on the  
19      results of the study conducted under this section, together  
20      with any recommendations for legislation that the Com-  
21      mission determines to be appropriate as a result of such  
22      study.

1 **SEC. 4. CLARIFICATION OF MEDICARE DEFINITION OF**  
2 **HOMEBOUND FOR PURPOSES OF HOME**  
3 **HEALTH SERVICES.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) Home health services are a vital component  
6 of the benefits that are furnished to beneficiaries  
7 under the medicare program under title XVIII of the  
8 Social Security Act.

9 (2) Home health services under the medicare  
10 program enable homebound individuals who are at  
11 great risk for costly institutionalized care to stay in  
12 their own homes and communities.

13 (3) Existing medicare regulations and practices  
14 inadvertently penalize medicare beneficiaries (includ-  
15 ing those with Alzheimer’s disease, a related demen-  
16 tia, or both) who participate in an adult day care  
17 program. Under those regulations, if a medicare  
18 beneficiary attends a privately funded adult day care  
19 program as part of their Alzheimer’s treatment re-  
20 gime, including an Alzheimer’s treatment regime,  
21 they may lose eligibility for the medicare home  
22 health benefit because the absences of the individual  
23 from home are not infrequent or short duration.

24 (4) Adult day care programs can be a valuable  
25 and medically beneficial part of a treatment regime  
26 for a person with Alzheimer’s disease or a related

dementia. These programs can provide structured activities and health monitoring to maintain function, manage behavioral symptoms and prevent health care crises and premature institutionalization.

(5) The Health Care Financing Administration and its various medicare contractors and fiscal intermediaries have misinterpreted the intent of Congress with respect to eligibility for home health services. Participation by medicare beneficiaries in privately funded adult day care programs is not intended to preclude eligibility for home health services for those medicare beneficiaries under the medicare program.

(b) CLARIFICATION OF THE DEFINITION OF HOME-BOUND.—

(1) IN GENERAL.—The last sentence of sections 1814(a) and 1835(a) of the Social Security Act (42 U.S.C. 1395f(a); 1395n(a)) are each amended by striking the period and inserting “Including participating in an adult day care program licensed by a State to furnish adult day care services in the State, for the purpose of therapeutic treatment for Alzheimer’s disease or a related dementia, or for medical treatment furnished in an adult day care program.”.

1           (2) EFFECTIVE DATE.—The amendments made  
 2       by paragraph (1) shall apply to items and services  
 3       provided on or after the date of enactment of this  
 4       Act.

5   **SEC. 5. TREATMENT OF PREMIUMS ON QUALIFIED LONG-**  
 6                           **TERM CARE INSURANCE CONTRACTS.**

7       (a) IN GENERAL.—Part VII of subchapter B of chap-  
 8       ter 1 of the Internal Revenue Code of 1986 (relating to  
 9       additional itemized deductions) is amended by redesign-  
 10      nating section 222 as section 223 and by inserting after  
 11      section 221 the following new section:

12   **“SEC. 222. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**  
 13                           **SURANCE CONTRACTS.**

14       “(a) IN GENERAL.—In the case of an individual,  
 15       there shall be allowed as a deduction an amount equal to  
 16       the applicable percentage of the amount of eligible long-  
 17       term care premiums (as defined in section 213(d)(10))  
 18       paid during the taxable year for coverage for the taxpayer,  
 19       his spouse, and dependents under a qualified long-term  
 20       care insurance contract (as defined in section 7702B(b)).

21       “(b) APPLICABLE PERCENTAGE.—For purposes of  
 22       subsection (a)—

23           “(1) IN GENERAL.—Except as otherwise pro-  
 24       vided in this subsection, the applicable percentage  
 25       shall be determined in accordance with the following



table based on the number of years of continuous coverage (as of the close of the taxable year) of the individual under any qualified long-term care insurance contracts (as defined in section 7702B(b)):

<b>“If the number of years of continuous coverage is—</b>	<b>The applicable long-term care percentage is—</b>
Less than 1 .....	60
At least 1 but less than 2 .....	70
At least 2 but less than 3 .....	80
At least 3 but less than 4 .....	90
At least 4 .....	100.

“(2) SPECIAL RULES FOR INDIVIDUALS WHO HAVE ATTAINED AGE 55.—In the case of an individual who has attained age 55 as of the close of the taxable year, the following table shall be substituted for the table in paragraph (1).

<b>“If the number of years of continuous coverage is—</b>	<b>The applicable long-term care percentage is—</b>
Less than 1 .....	70
At least 1 but less than 2 .....	85
At least 2 .....	100.

“(3) ONLY COVERAGE AFTER 1999 TAKEN INTO ACCOUNT.—Only coverage for periods after December 31, 1999, shall be taken into account under this subsection.

“(4) CONTINUOUS COVERAGE.—An individual shall not fail to be treated as having continuous coverage if the aggregate breaks in coverage during any 1-year period are less than 60 days.

“(c) COORDINATION WITH OTHER DEDUCTIONS.—Any amount paid by a taxpayer for any qualified long-

1 term care insurance contract to which subsection (a) ap-  
 2 plies shall not be taken into account in computing the  
 3 amount allowable to the taxpayer as a deduction under  
 4 section 162(l) or 213(a).”

5 (b) CONTINGENT NONFORFEITURE REQUIREMENTS  
 6 ADDED TO CONSUMER PROTECTION PROVISIONS.—

7 (1) Section 7702B(g)(2)(A)(i) of the Internal  
 8 Revenue Code of 1986 (relating to model regulation)  
 9 is amended by adding at the end the following new  
 10 subclause:

11 “(XII) Section 23 (relating to  
 12 contingent nonforfeiture benefits), if  
 13 the policyholder declines the offer of a  
 14 nonforfeiture provision described in  
 15 paragraph (4).”

16 (2) Section 7702B(g)(2)(A)(ii) of such Code  
 17 (relating to model Act) is amended by adding at the  
 18 end the following new subclause:

19 “(III) Section 8 (relating to con-  
 20 tingent nonforfeiture benefits), if the  
 21 policyholder declines the offer of a  
 22 nonforfeiture provision described in  
 23 paragraph (4).”

24 (c) REFERENCE TO NAIC MODEL ACT UPDATED.—  
 25 Section 7702B(g)(2)(B)(i) of the Internal Revenue Code

1 of 1986 (relating to model provisions) is amended by strik-  
2 ing “January 1993” and inserting “January 1999”.

3 (d) LONG-TERM CARE INSURANCE PERMITTED TO  
4 BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE  
5 SPENDING ARRANGEMENTS.—

6 (1) CAFETERIA PLANS.—Section 125(f) of the  
7 Internal Revenue Code of 1986 (defining qualified  
8 benefits) is amended by inserting before the period  
9 at the end “; except that such term shall include the  
10 payment of premiums for any qualified long-term  
11 care insurance contract (as defined in section  
12 7702B) to the extent the amount of such payment  
13 does not exceed the eligible long-term care premiums  
14 (as defined in section 213(d)(10)) for such con-  
15 tract”.

16 (2) FLEXIBLE SPENDING ARRANGEMENTS.—  
17 Section 106 of such Code (relating to contributions  
18 by an employer to accident and health plans) is  
19 amended by striking subsection (c).

20 (e) CONFORMING AMENDMENTS.—

21 (1) Section 62(a) of the Internal Revenue Code  
22 of 1986 is amended by inserting after paragraph  
23 (17) the following new item:

(3) Section 4980C(c)(1)(A) of such Code is amended by striking “13”, “14”, “20”, “21”, “21C(1)”, “21C(6)”, “22”, “24”, and “25” and inserting “12”, “13”, “19”, “20C(1)”, “20C(6)”, “21”, “25”, and “26”, respectively.

“Sec. 222. Premiums on qualified long-term care insurance contracts.”

“Sec. 223. Cross reference.”

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1999.

1           (2) CONSUMER PROTECTION PROVISIONS.—The  
 2           amendments made by subsections (b), (c), (e)(2),  
 3           and (e)(3) shall apply to policies issued after the  
 4           date which is 1 year after the date of the enactment  
 5           of this Act.

6           (3) CAFETERIA PLANS AND FLEXIBLE SPEND-  
 7           ING ARRANGEMENTS.—The amendments made by  
 8           subsection (c) shall apply to taxable years beginning  
 9           after December 31, 2001.

10 **SEC. 6. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**  
 11 **NEEDS.**

12           (a) IN GENERAL.—Subpart A of part IV of sub-  
 13 chapter A of chapter 1 of the Internal Revenue Code of  
 14 1986 (relating to nonrefundable personal credits) is  
 15 amended by inserting after section 25A the following new  
 16 section:

17 **“SEC. 25B. CREDIT FOR TAXPAYERS WITH LONG-TERM**  
 18 **CARE NEEDS.**

19           “(a) ALLOWANCE OF CREDIT.—

20           “(1) IN GENERAL.—There shall be allowed as a  
 21           credit against the tax imposed by this chapter for  
 22           the taxable year an amount equal to the applicable  
 23           credit amount multiplied by the number of applica-  
 24           ble individuals with respect to whom the taxpayer is  
 25           an eligible caregiver for the taxable year.

1           “(2) APPLICABLE CREDIT AMOUNT.—For pur-  
 2           poses of paragraph (1), the applicable credit amount  
 3           shall be determined in accordance with the following  
 4           table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable credit amount is—</b>
2000 .....	\$1,000
2001 .....	1,500
2002 .....	2,000
2003 .....	2,500
2004 or thereafter .....	3,000.

5           “(b) LIMITATION BASED ON ADJUSTED GROSS IN-  
 6           COME.—

7           “(1) IN GENERAL.—The amount of the credit  
 8           allowable under subsection (a) shall be reduced (but  
 9           not below zero) by \$100 for each \$1,000 (or fraction  
 10          thereof) by which the taxpayer’s modified adjusted  
 11          gross income exceeds the threshold amount. For  
 12          purposes of the preceding sentence, the term ‘modi-  
 13          fied adjusted gross income’ means adjusted gross in-  
 14          come increased by any amount excluded from gross  
 15          income under section 911, 931, or 933.

16          “(2) THRESHOLD AMOUNT.—For purposes of  
 17          paragraph (1), the term ‘threshold amount’ means—

18                  “(A) \$150,000 in the case of a joint re-  
 19                  turn, and

20                  “(B) \$75,000 in any other case.

21          “(3) INDEXING.—In the case of any taxable  
 22          year beginning in a calendar year after 2000, each

1 dollar amount contained in paragraph (2) shall be  
2 increased by an amount equal to the product of—

3 “(A) such dollar amount, and

4 “(B) the medical care cost adjustment de-  
5 termined under section 213(d)(10)(B)(ii) for  
6 the calendar year in which the taxable year be-  
7 gins, determined by substituting ‘August 1999’  
8 for ‘August 1996’ in subclause (II) thereof.

9 If any increase determined under the preceding sen-  
10 tence is not a multiple of \$50, such increase shall  
11 be rounded to the next lowest multiple of \$50.

12 “(c) DEFINITIONS.—For purposes of this section—

13 “(1) APPLICABLE INDIVIDUAL.—

14 “(A) IN GENERAL.—The term ‘applicable  
15 individual’ means, with respect to any taxable  
16 year, any individual who has been certified, be-  
17 fore the due date for filing the return of tax for  
18 the taxable year (without extensions), by a phy-  
19 sician (as defined in section 1861(r)(1) of the  
20 Social Security Act) as being an individual with  
21 long-term care needs described in subparagraph  
22 (B) for a period—

23 “(i) which is at least 180 consecutive  
24 days, and

1 “(ii) a portion of which occurs within  
2 the taxable year.

3 Such term shall not include any individual oth-  
4 erwise meeting the requirements of the pre-  
5 ceding sentence unless within the 39½ month  
6 period ending on such due date (or such other  
7 period as the Secretary prescribes) a physician  
8 (as so defined) has certified that such indi-  
9 vidual meets such requirements.

10 “(B) INDIVIDUALS WITH LONG-TERM CARE  
11 NEEDS.—An individual is described in this sub-  
12 paragraph if the individual meets any of the fol-  
13 lowing requirements:

14 “(i) The individual is at least 6 years  
15 of age and—

16 “(I) is unable to perform (with-  
17 out substantial assistance from an-  
18 other individual) at least 3 activities  
19 of daily living (as defined in section  
20 7702B(c)(2)(B)) due to a loss of  
21 functional capacity, or

22 “(II) requires substantial super-  
23 vision to protect such individual from  
24 threats to health and safety due to se-  
25 vere cognitive impairment and is un-



1           able to preform, without reminding or  
2           cuing assistance, at least 1 activity of  
3           daily living (as so defined) or to the  
4           extent provided in regulations pre-  
5           scribed by the Secretary (in consulta-  
6           tion with the Secretary of Health and  
7           Human Services), is unable to engage  
8           in age appropriate activities.

9           “(ii) The individual is at least 2 but  
10          not 6 years of age and is unable due to a  
11          loss of functional capacity to perform  
12          (without substantial assistance from an-  
13          other individual) at least 2 of the following  
14          activities: eating, transferring, or mobility.

15          “(iii) The individual is under 2 years  
16          of age and requires specific durable med-  
17          ical equipment by reason of a severe health  
18          condition or requires a skilled practitioner  
19          trained to address the individual’s condi-  
20          tion to be available if the individual’s par-  
21          ents or guardians are absent.

22          “(2) ELIGIBLE CAREGIVER.—

23                 “(A) IN GENERAL.—A taxpayer shall be  
24                 treated as an eligible caregiver for any taxable  
25                 year with respect to the following individuals:

1 “(i) The taxpayer.

2 “(ii) The taxpayer’s spouse.

3 “(iii) An individual with respect to  
4 whom the taxpayer is allowed a deduction  
5 under section 151 for the taxable year.

6 “(iv) An individual who would be de-  
7 scribed in clause (iii) for the taxable year  
8 if section 151(c)(1)(A) were applied by  
9 substituting for the exemption amount an  
10 amount equal to the sum of the exemption  
11 amount, the standard deduction under sec-  
12 tion 63(c)(2)(C), and any additional stand-  
13 ard deduction under section 63(c)(3) which  
14 would be applicable to the individual if  
15 clause (iii) applied.

16 “(v) An individual who would be de-  
17 scribed in clause (iii) for the taxable year  
18 if—

19 “(I) the requirements of clause  
20 (iv) are met with respect to the indi-  
21 vidual, and

22 “(II) the requirements of sub-  
23 paragraph (B) are met with respect to  
24 the individual in lieu of the support  
25 test of section 152(a).

1           “(B) RESIDENCY TEST.—The require-  
2           ments of this subparagraph are met if an indi-  
3           vidual has as his principal place of abode the  
4           home of the taxpayer and—

5                   “(i) in the case of an individual who  
6                   is an ancestor or descendant of the tax-  
7                   payer or the taxpayer’s spouse, is a mem-  
8                   ber of the taxpayer’s household for over  
9                   half the taxable year, or

10                   “(ii) in the case of any other indi-  
11                   vidual, is a member of the taxpayer’s  
12                   household for the entire taxable year.

13           “(C) SPECIAL RULES WHERE MORE THAN  
14           1 ELIGIBLE CAREGIVER.—

15                   “(i) IN GENERAL.—If more than 1 in-  
16                   dividual is an eligible caregiver with re-  
17                   spect to the same applicable individual for  
18                   taxable years ending with or within the  
19                   same calendar year, a taxpayer shall be  
20                   treated as the eligible caregiver if each  
21                   such individual (other than the taxpayer)  
22                   files a written declaration (in such form  
23                   and manner as the Secretary may pre-  
24                   scribe) that such individual will not claim

1           such applicable individual for the credit  
2           under this section.

3           “(ii) NO AGREEMENT.—If each indi-  
4           vidual required under clause (i) to file a  
5           written declaration under clause (i) does  
6           not do so, the individual with the highest  
7           modified adjusted gross income (as defined  
8           in section 32(c)(5)) shall be treated as the  
9           eligible caregiver.

10          “(iii) MARRIED INDIVIDUALS FILING  
11          SEPARATELY.—In the case of married indi-  
12          viduals filing separately, the determination  
13          under this subparagraph as to whether the  
14          husband or wife is the eligible caregiver  
15          shall be made under the rules of clause (ii)  
16          (whether or not one of them has filed a  
17          written declaration under clause (i)).

18          “(d) IDENTIFICATION REQUIREMENT.—No credit  
19          shall be allowed under this section to a taxpayer with re-  
20          spect to any applicable individual unless the taxpayer in-  
21          cludes the name and taxpayer identification number of  
22          such individual, and the identification number of the phy-  
23          sician certifying such individual, on the return of tax for  
24          the taxable year.

1       “(e) TAXABLE YEAR MUST BE FULL TAXABLE  
 2 YEAR.—Except in the case of a taxable year closed by rea-  
 3 son of the death of the taxpayer, no credit shall be allow-  
 4 able under this section in the case of a taxable year cov-  
 5 ering a period of less than 12 months.”

6       (b) CONFORMING AMENDMENTS.—

7           (1) Section 6213(g)(2) of the Internal Revenue  
 8 Code of 1986 is amended by striking “and” at the  
 9 end of subparagraph (K), by striking the period at  
 10 the end of subparagraph (L) and inserting “, and”,  
 11 and by inserting after subparagraph (L) the fol-  
 12 lowing new subparagraph:

13           “(M) an omission of a correct TIN or phy-  
 14 sician identification required under section  
 15 25B(d) (relating to credit for taxpayers with  
 16 long-term care needs) to be included on a re-  
 17 turn.”

18           (2) The table of sections for subpart A of part  
 19 IV of subchapter A of chapter 1 of such Code is  
 20 amended by inserting after the item relating to sec-  
 21 tion 25A the following new item:

“Sec. 25B. Credit for taxpayers with long-term care needs.”

22       (c) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to taxable years beginning after  
 24 December 31, 1999.

